IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23718 of 2004

Between:

B. Ramanaiah S/o Late Venkata Subbayya,
r/o HIG-29, Sai Mandir Marg, N.E. Layout, Seethammadhara, Visakhapatnam

..... PETITIONER

AND

1 The Principal Secretary, Transport Roads & Buildings Department, Government of A.P., Secretariat,
Hyderabad
2 The Engineer-in-Chief (R&B) National Highways, A.P. Erramanzil Hyderabad
3 The Engineer-in-Chief (R&B), National Highways, Andhra Pradesh, Hyderabad
4 The Executive Engineer (R&B) NH Marripalem, Visakhapatnam-18

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents in not refunding the deposits of the petitioner as arbitrary, illegal and further direct the respondents to refund the deposits made by the petitioner to the tune of Rs. 1,67,723=00 within a specified time by releasing the necessary funds and pass such other order or orders

Counsel for the Petitioner: MR.T.P.ACHARYA

Counsel for the Respondents : GP FOR ROADS & BUILDINGS

The Court made the following :

ORAL ORDER:

The petitioner is a Contractor doing civil contract works. He was awarded contract work for providing periodical renewals in the reaches from KM 128/0 to 140/0 of V.B. Section, N.H.5 under various C.R. agreement numbers for a sum of Rs.1,67,723/-. In pursuance of those agreements, the petitioner completed the work in June, 2001 and it was cheque measured and recorded in M.Book Nos.2111D. The petitioner is entitled to get the final bill. A sum of Rs.1,67,723/- is the amount payable to him. He got issued a legal notice on 24.1.2004 to the 1st, 2nd, 4th respondents and the Superintending Engineer, N.H., Vizianagaram. But, so far the payment has not been made. Therefore, the petitioner has approached this Court, seeking a direction to the respondents to release the amount due to him within a specified time.

Heard the learned counsel for the both the parties and perused the material on record.

The respondents Nos.1 and 4 are not disputing the claim of the petitioner, but they are unable to make payment due to non-receipt of the amount from the National High Way Authority of India, New Delhi. Since the petitioner is contending that the cheque measurement was recorded by the 3rd and 4th respondents, there shall not be any objection to arrange payment of the amount due to the petitioner and they cannot postpone the payment indefinitely.

The 3rd and 4th respondents are therefore, directed to secure the funds and release them in favour of the petitioner within two months from the date of receipt of this order. The second respondent shall on the request of the 3rd and 4th respondents release the necessary funds for arranging payment to the petitioner within the time stipulated by this Court. However, this order will not preclude the respondents from withholding the amount if the petitioner acted contrary to the agreement, by recording reasons.

Accordingly, the writ petition is disposed of. No order as to costs.

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(K.C. BHANU, J.)

21st December, 2004.

bcj

To

1 The Principal Secretary, Transport Roads & Buildings Department, Government of A.P., Secretariat, Hyderabad
2 The Engineer-in-Chief (R&B) National Highways, A.P. Erramanzil Hyderabad
3 The Engineer-in-Chief (R&B), National Highways, Andhra Pradesh, Hyderabad
4 The Executive Engineer (R&B) NH Marripale, Visakhapatnam-18

5 Two C.Cs. to the Government Pleader for Roads and Buildings, High Court Buildings, Hyderabad (OUT).

6 Two C.D. copies